

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JORDAN NICHOLAS SUKUT,
Plaintiff

v.

COUNTY OF SAN
BERNARDINO, et al.,
Defendants.

Case No. EDCV 23-1480-WDK (SSC)

**ORDER ACCEPTING REPORT
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Complaint (“FAC”) (Docket No. 12), the Motions to Dismiss and Strike filed by Defendants San Bernardino County and San Bernardino County Flood Control District (Docket Nos. 13, 14), Opposition and Reply to the Motions (Docket Nos. 17-19), the Report and Recommendation of the United States Magistrate Judge (“Report,” Docket No. 28), Plaintiff’s Objections to the Report (“Objections,” Docket No. 29), and the other relevant records on file. The Court has engaged in a *de novo* review of those portions of the Report to which Plaintiff has objected.

Although not required, the Court briefly makes the following observations. *See United States v. Ramos*, 65 F.4th 427, 434 (9th Cir. 2023) (“the district court ha[s] no obligation to provide individualized analysis of each objection”); *Wang v. Masaitis*, 416 F.3d 992, 1000 (9th Cir. 2005) (affirming a cursory district court order

1 summarily adopting, without addressing any objections, a magistrate judge's report
2 and recommendation).

3 The Court acknowledges Defendants' argument regarding service on
4 Defendant Snoke (Docket No. 29 at 6), but it declines to reach an issue raised for the
5 first time in the Objections. *See Akhtar v. Mesa*, 698 F.3d 1202, 1208 (9th Cir.
6 2012) (district court is not required to consider arguments presented for first time in
7 objections); *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001)
8 (generally, the court must limit its review to the operative pleading). Should
9 Defendant Snoke desire to challenge the adequacy of service on him, he may do so
10 through a properly noticed motion to dismiss under Rule 4(m) of the Federal Rules
11 of Civil Procedure, not via objections.

12 The Court further acknowledges Defendants' request that Plaintiff's state-law
13 claims be dismissed with prejudice because the related state-court action has been
14 dismissed. (Docket No. 29 at 6-7; Docket No. 29-1 at 2-3). However, it is not clear
15 that the dismissed state action contained all the same state-law claims that Plaintiff
16 presented here and/or that there is no means by which he might be permitted to
17 present any of those state-law claims in a state-court action. (Docket No. 12 at 1;
18 Docket No. 14-1 at 24-31).

19 The Objections are overruled.

20 **IT IS THEREFORE ORDERED** that:

21 (1) The Report is **ACCEPTED** and adopted as the Court's own findings and
22 conclusions;

23 (2) County Defendants' Motion to Dismiss (Docket No. 14) is **GRANTED**
24 **IN PART**; Plaintiff's state-law claims are dismissed without prejudice to any state-
25 court action he may be entitled to pursue;

26 (3) County Defendants' Motion to Strike (Docket No. 13) is **GRANTED IN**
27 **PART** consistent with the Report;

28 (4) To the extent Plaintiff requests counsel, the request is **DENIED** for the

1 reasons stated in the Report (*see* Docket No. 28 at 15 n.10);

2 (5) Defendant Hernandez is **DISMISSED** from this action without prejudice
3 for Plaintiff's failure to serve him; and

4 (6) this action shall proceed on the FAC as to Plaintiff's federal constitutional
5 claims only as limited by the Report regarding Defendants' Motion to Strike.

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7 IT IS SO ORDERED.

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9 Dated: November 20, 2024



10 WILLIAM D. KELLER
11 United States District Judge
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